

Message Text

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14/12

ORIGIN EB-11

INFO OCT-01 EUR-25 IO-14 ISO-00 AGR-20 CEA-02 CIAE-00

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INT-08 L-03 LAB-06 NSC-10 PA-04 AID-20 CIEP-02 SS-20

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INTERIOR: EGEALY

STATE: JCRAWFORD

AGRICULTURE: RMCCONNELL

COMMERCE: DSCHLECHTY

LABOR: FLAVALLEE

STATE: BSIMPSON

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R 140020Z DEC 73

FM SECSTATE WASHDC

TO AMEMBASSY MADRID

INFO USMISSION GENEVA

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C O R R E C T E D C O P Y (LINE OMMISSION 3RD LINE OF
PARA 2)

E.O. 11652:N/A

TAGS: EAGR, ETRD, GATT, SP

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SUBJECT: SPANISH VARIABLE LEVIES/REBATES ON SOYBEAN AND
SOYBEAN PRODUCTS

REFS : (A) STATE 208284; (B) STATE 228318

(C) STATE 237249; (D) MADRID 7239

1. IN VIEW OF IMPORTANCE TO U.S. OF SOYBEAN EXPORTS TO SPAIN AND THE UNEQUIVOCAL DEPARTURE OF GOS FROM GATT OBLIGATIONS, USG CONTINUES TO ATTACH HIGH PRIORITY TO ELIMINATION OF VARIABLE LEVY AND REMOVAL OF REBATES PAID BY SPANISH PROCESSORS OF U.S. SOYBEANS. THESE MEASURES PROVIDE FOR LEVIES AND CHARGES IN EXCESS OF GATT BINDINGS AND THEREBY CONSTITUTE AN ILLEGAL BARRIER TO TRADE IRRESPECTIVE OF WHETHER VARIABLE LEVIES COLLECTED OR NOT IN SPECIFIC CASES. ACCORDINGLY, EMBASSY IS REQUESTED AT HIGHEST APPROPRIATE LEVEL TO PRESENT TO FOREIGN MINISTRY FOLLOWING NOTE (WITH COMPLEMENTARY OPENING AND CLOSING), DRAWING FOR DISCUSSION PURPOSES ON PERTINENT PARAGRAPHS OF REFTELS A THROUGH C:

BEGIN TEXT:

- -
USG RRS TO ITS NOTE OF OCTOBER 24, 1973, WHICH, IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE XXIII:1 OF THE GATT, REQUESTED THE GOS TO TAKE IMMEDIATE ACTION TO TERMINATE ITS VARIABLE LEVIES ON SOYBEANS AND SOYBEAN MEAL, WHICH VIOLATE U.S. RIGHTS UNDER ARTICLE II OF THE GATT. THE USG BELIEVES THAT SPANISH VARIABLE LEVIES, WHETHER REGULARLY COLLECTED OR NOT, ARE IN VIOLATION OF U.S. RIGHTS UNDER ARTICLE II SINCE THEY SERVE AS A DETERRENT TO IMPORTS OF U.S. SOYBEANS AND SOYBEAN MEAL INTO SPAIN.

THE USG IS FURTHER CONCERNED THAT THE REBATE SYSTEM WHICH THE GOS APPLIES TO THE PROCESSING OF SOYBEANS IMPAIRS U.S. GATT RIGHTS UNDER ARTICLE II WITH RESPECT TO SOYBEAN BINDINGS, AND UNDER ARTICLE III: PARAGRAPHS 1 AND 2 WITH RESPECT TO DISCRIMINATORY INTERNAL CHARGES. THEREFORE, IN ACCORDANCE WITH ARTICLE XXIII:1 OF THE GATT, THE USG REQUESTS THE GOS TO TERMINATE IMMEDIATELY THESE CHARGES.

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THE USG WISHES TO EMPHASIZE THE IMPORTANCE IT ATTACHES TO PROMPT ACTION BY THE GOS IN TERMINATING THESE MEASURES WHICH VIOLATE SPAIN'S GATT OBLIGATIONS, IMPAIR CONCESSIONS GRANTED TO THE UNITED STATES, AND DISCRIMINATE AGAINST IMPORTS IN FAVOR OF LIKE AND DIRECTLY COMPETITIVE SPANISH PRODUCTS. IN ORDER TO REMOVE CURRENT UNCERTAINTIES WHICH ARE ADVERSELY AFFECTING FORWARD CONTRACTING FOR SOYBEAN SHIPMENTS FOR PERIOD AFTER JANUARY 31, 1974, USG ATTACHES PARTICULAR IMPORTANCE TO TIMELINESS OF GOS ACTION, INCLUDING APPROPRIATE PUBLIC NOTIFICATION. END TEXT.

2. EMBASSY SHOULD MAKE REPRESENTATIONS AT APPROPRIATE

POLICY LEVELS OF MINISTRIES AGRICULTURE, COMMERCE AND FINANCE TO REFUTE GOS ASSERTIONS THAT VL SCHEME DOESN'T MATTER BECAUSE DUTIES NOT COLLECTED. AS EMBASSY HAS REPORTED (REFTEL D, PARA 3), GOS-SOYBEAN PROCESSING INDUSTRY AGREEMENT ON REBATES DEPENDENT UPON GOS ON-AGAIN OFF-AGAIN VARIABLE LEVY. ACCORDINGLY, EMBASSY SHOULD POINT OUT THAT REBATES HAVE SAME EFFECT AS VL'S BUT ARE MERELY COLLECTED AT LATER STAGE IN MARKETING CHANNEL. COMBINED EFFECT IS TO MAINTAIN ARTIFICIALLY HIGH PRICE OF SOYBEAN PRODUCTS TO SPANISH CONSUMERS WITH SHORT-TERM EFFECT OF REDUCING CURRENT CONSUMPTION AND LONGER TERM EFFECT OF EXPANDING SPAIN'S COMPETING OIL SEED PRODUCTION. ADDITIONAL EFFECT OF GOS MEASURES IS TO CREATE UNCERTAINTY WITH RESPECT TO FUTURE SUPPLY/PRICING OF SOYBEAN PRODUCTS FOR SUPPLIERS, PROCESSORS AND CONSUMERS ALIKE. FYI-ALTHOUGH WE PREFER NOT RAISE ISSUE OF SUPPLY DISRUPTION, IF SPANISH RAISE IT, YOU MAY STATE IT WAS GOS PRICING POLICY (ATTEMPTING MAINTAIN CEILING PRICE WITH PROGRAM OF UNCERTAIN SUBSIDIES) WHICH LED TO DISCONTINUANCE AFTER MAY 1, 1973 OF FORWARD CONTRACTS ON SOYBEAN DELIVERIES BY SPANISH CRUSHERS. UNCERTAINTY CONCERNING PAYMENT OF SUBSIDIES BY COUNCIL OF MINISTERS ON MAY 11 LEFT PROCESSORS UNABLE TO MAKE PLANS OR PURCHASES IN PERIOD PRIOR TO IMPOSITION TEMPORARY U.S. EXPORT CONTROLS ON JUNE 27, 1973. ON MAY 18, C.M. AUTHORIZED SENPA TO PURCHASE AND IMPORT SOYBEAN MEAL, BUT NOT SOYBEANS. WHILE U.S. SOYBEAN EXPORTS TO SPAIN ENDED IN MAY 1973, SOYBEAN MEAL EXPORTS PURCHASED BY SENPA CONTINUED ON A MONTHLY BASIS THROUGH SEPTEMBER/OCTOBER OR DURING ENTIRE PERIOD OF U.S. EXPORT CONTROLS.

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END FYI.

3. EMBASSY SHOULD STRESS THAT IMPORTANCE USG ATTACHES TO IMMEDIATE ELIMINATION OF VL AND REBATE SCHEME BECAUSE OF 1) IMPAIRMENT OF U.S. BINDINGS OF SOYBEANS AND MEAL AND CONSEQUENT DISCRIMINATION AGAINST U.S. SOYBEANS IN FAVOR SPANISH OIL SEED PRODUCTION, 2) PRECEDENT WHICH OTHER COUNTRIES MAY FIND IN GOS EXAMPLE, AND 3) USG CONCERN THAT ALL GATT CP'S ABIDE BY OBLIGATIONS IF GATT ORGANIZATION TO REMAIN EFFECTIVE INSTITUTION FOR ADVANCING COLLECTIVE TRADE INTERESTS OF MEMBER COUNTRIES.

4. RE TIMING OF GOS REMOVAL OF VL SCHEME AND REBATE CHARGES, EMBASSY SHOULD NOTE THAT UNCERTAINTIES OVER HOW GOS WILL DEAL WITH VARIABLE LEVIES AND REBATES HAVE PREVENTED U.S. EXPORTERS FROM CONTRACTING FOR SHIPMENTS AFTER FEBRUARY 1, 1974. IF GOS UNRESPONSIVE TO EMBASSY REPRESENTATIONS, EMBASSY IS TO MAKE CLEAR THAT IN ABSENCE GOS DECISION ON ENDING VIOLATION/IMPAIRMENT OF U.S. GATT RIGHTS IN TIMELY MANNER (WHICH WOULD ALSO ASSURE AVOIDANCE

DISRUPTION OF SOYBEAN CONTRACTING FOR POST-FEBRUARY 1 PERIOD), USG MAY HAVE NO RECOURSE OTHER THAN TO SEEK FINDING BY CP'S ON IMPAIRMENT U.S. BINDINGS AND DISCRIMINATORY NATURE OF MEASURES GOS HAS TAKEN AGAINST SOYBEAN IMPORTS IN FAVOR SPAIN'S DOMESTIC OIL SEED PRODUCERS. EMBASSY MAY ALSO WISH TO NOTE U.S. CONCERN (SEE REFTTEL A, PARA 2A) ABOUT EFFECT WHICH CONTINUANCE OF GOS UNILATERAL ACTIONS ON SOYBEANS COULD HAVE ON MUTUAL UNDERSTANDING TO CONSULT ON ISSUES OF TRADE INTEREST.

5. PUBLIC OFFICIAL NOTICE BY MID-JANUARY REVOKING GOS DECISION OF SEPTEMBER 17, 1973 (ESTABLISHING VL SCHEME) WOULD SEEM NECESSARY TO REMOVE UNCERTAINTIES AFFECTING PLANNING, PURCHASING, AND SHIPPING OF SOYBEAN SUPPLIES BEYOND JANUARY 1974. EMBASSY SHOULD SEEK 1) ASSURANCES WITH RESPECT TO TIMELY PUBLIC NOTICE BY GOS AND 2) FORMAL

REPLY FROM GOS TO U.S. NOTE OF OCTOBER 24 AND CURRENT NOTE IN ORDER FACILITATE USG NOTIFICATION TO INTERESTED U.S. SUPPLIERS.

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6. FULL EMBASSY REPORTING REQUESTED. RUSH

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